



March 31, 2022

Honorable Rohit Chopra, Director
Consumer Financial Protection Bureau
1700 G St. NW
Washington, DC 20552

**RE: Fees Imposed by Providers of Consumer Financial Products or Services
Docket No. CFPB-2022-0003**

Dear Director Chopra,

The Ohio Credit Union League (OCUL) represents the collective interests of Ohio's 234 credit unions and their more than three million members. Of those 234 credit unions, 127 are federally-chartered; 61 state-chartered, federally-insured; and 46 state-chartered, privately-insured, with an average asset size of \$172 million. OCUL appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) request for information related to fees that are not subject to competitive and fair pricing regulation.

As prudentially regulated, member-owned, not-for-profit financial cooperatives, Ohio credit unions serve as a shining example of consumer empowerment in competitive financial services. From democratically controlling board activity to influencing a suite of customized, consumer-specific financial services and products, Ohio credit union members choose membership with their credit union and often endorse their credit union's service model and fee structure by simply choosing to remain a member.

OCUL appreciates the opportunity to provide expert feedback and guidance to the CFPB and policymakers on the oversight of consumer financial markets to attain fairness and transparency while preserving competition. OCUL believes optimal regulation occurs when the regulators and the regulated collaborate on safety, soundness, and consumer protection priorities without negatively impacting operational viability and mission achievement. As a request for information is often a rulemaking precursor, OCUL seeks to aid the CFPB in understanding the relationship between credit union fee structures, consumer protections, and financial market competition through the following prompts.

I. Credit union fees are already regulated and transparently disclosed to members

Throughout the request for information, the CFPB considers the fees associated with credit union operations, such as those associated with standard financial services, such as credit cards, lending, account administration, payments, and transactions.¹ Multiple state and federal laws, including many promulgated by the CFPB, already require credit unions to disclose terms and fees in a clear and conspicuous manner.² For example, Ohio credit unions are currently regulated for fee conspicuousness, fairness, and transparency by the following list of federal and state (Ohio) regulators:

¹ CFPB issues RFI on financial product fees, Credit Union National Association. https://news.cuna.org/articles/120420-cfpb-issues-rfi-on-financial-product-fees?utm_source=real%5Fmagnet&utm_medium=email&utm_campaign=012722%5Fnews%5Fthedaily%5Ffinal.

² Id.

- National Credit Union Administration - 12 C.F.R Part 707³
- Consumer Financial Protection Bureau – 12 C.F.R. Part 1026⁴
- Federal Trade Commission – 15 U.S.C. §§ 41-58⁵
- Ohio Division of Financial Institutions – Ohio Administrative Rule 1301:9-2-26⁶
- Ohio Attorney General – Ohio Revised Code Section 1345 – Consumer Protection Laws⁷

However, this request for information broadly describes various fees as “junk fees” despite the tested and regulated nature of standard service fees.⁸ Generally, fees are associated with the administrative and operational costs borne by a credit union to deliver a specific product or service offered to a member. As such, credit union service fees are incomparable to resort and ticket price “junk fees” based solely on the not-for-profit nature of credit unions and their enhanced due diligence efforts to drive operational profitability while meeting the unique and customized services needed and demanded by consumers, or their members.

II. While fees are not always associated with an upfront cost, service fees are directly related to credit union services and a necessary component to member service.

Operational income derived from service fees is a vital prong of credit union success, supporting member service delivery. Unlike “junk” fees, credit union service fees are tied to a service being rendered; moreover, the service being rendered is often at the discretion and control of the member. The CFPB’s label of “junk fees” is misguided by broadly including regulated and transparent fee structures and disclosures. Services do cost money, and these fees are part of a service being offered to help meet member needs and demands, and potentially outside of the day-to-day activities of an average consumer.

The CFPB further contends that these fees far exceed the marginal costs of the service they purport to cover, implying that credit unions are not just shifting costs to their members, but rather, taking advantage of a captive relationship with a member to drive excess profits.⁹ In Ohio, the average net income for a credit union is \$1,239,027, and the average fee income is \$746,631.¹⁰ In the state of

³ Part 707 of the NCUA Rules and Regulations implements the Truth in Savings Act of 1991 (TISA), contained in the Federal Deposit Insurance Corporation Improvement Act of 1991, 12 U.S.C. 4301, et seq. NCUA’s regulation (12 CFR Part 707) became effective in 1993 and should not be confused with Regulation DD. Regulation DD is a Consumer Financial Protection Bureau regulation that implements TISA for all depository institutions, except credit unions, that offer deposit accounts to residents of any state. However, it is important to note Congress mandated that NCUA’s regulation be “substantially similar” to Regulation DD. <https://www.ncua.gov/regulation-supervision/manuals-guides/federal-consumer-financial-protection-guide/compliance-management/deposit-regulations/truth-savings-act-ncua-rules-regulations-part-707>.

⁴ This section of law covers general disclosures, open/closed credit, mortgages, student loans, etc. <https://www.consumerfinance.gov/rules-policy/regulations/1026/4/>.

⁵ Under this Act, as amended, the Commission is empowered, among other things, to (a) prevent unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce; [. . .](c) prescribe rules defining with specificity acts or practices that are unfair or deceptive, and establishing requirements designed to prevent such acts or practices; (d) gather and compile information and conduct investigations relating to the organization, business, practices, and management of entities engaged in commerce; [. . .] <https://www.ftc.gov/enforcement/statutes/federal-trade-commission-act>

⁶ Ohio Laws & Administrative Rules, <https://codes.ohio.gov/ohio-administrative-code/rule-1301:9-2-26>.

⁷ Ohio Laws & Administrative Rules, <https://codes.ohio.gov/ohio-revised-code/chapter-1345>.

⁸ Supra, note 3, pg. 3.

⁹ Id.

¹⁰ Fee income includes all fees as required by Call Report 5300 forms including, but not limited to: overdraft fees, ATM



Ohio, a credit union member can expect to pay, on average, roughly \$39 in fees. Approximately 30% of Ohio credit unions are operating at a net loss to begin with; thus, removing or further limiting fees could negatively impact credit unions operationally, particularly smaller credit unions and those serving low-income and community development designated memberships, impacting the ability to offer financial lifelines and intensive member services while driving an operational profit. Additionally, only about 18% of Ohio credit unions have net income above \$746,631 (average fee income). However, only 40% have fee income exceeding their net income, thus implying without fee income, those credit unions either already are, or would be experiencing an operational loss.

Ohio credit unions remain responsible, well-regulated, and consumer-friendly financial institutions focused on fostering financial well-being for all people, families, and communities. Imposing “junk fees” unrelated to service delivery costs to drive excessive profits is counterintuitive to the “people helping people” philosophy that underpins member-owned, financial cooperatives committed to helping members achieve their version of the American dream.

OCUL appreciates the opportunity to engage with the CFPB on various financial services industry fees and remains committed to assisting the CFPB further explore ways to protect consumers and preserve competitive financial markets.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul L. Mercer".

Paul L. Mercer
President

A handwritten signature in black ink, appearing to read "Sean M. Brown".

Sean M. Brown, Esq.
Director, Regulatory Affairs

fees, credit card fees, wire fees, account research fees, late fees, statement production fees, dormant account fees, transaction service fees, safekeeping fees, others.